

The
MAYOR AND BOROUGH COUNCIL
of the
BOROUGH OF GLEN RIDGE
County of Essex
State of New Jersey



Monday, September 24, 2018.

RESOLUTION NO. 131-18

Offered By Councilor Morrow
Seconded By Councilor _____

WHEREAS, on July 27, 2015, Glen Ridge Developers, LLC (the "**Builder**") commenced a builder's remedy lawsuit (the "**Baldwin Street Litigation**") against Glen Ridge Borough and the Glen Ridge Planning Board in the Superior Court of New Jersey, Law Division, Essex County, under Docket No. ESX-L-5308-15, involving the approximately 2.1 contiguous acres designated as Tax Block 72/Lot 2 (a/k/a 283 Baldwin Street), Tax Block 72/Lot 3 (a/k/a 277 Baldwin Street), Tax Block 72/Lot 4 (a/k/a 273 Baldwin Street), Tax Block 72/Lot 9 (a/k/a 275 Baldwin Street) and Tax Block 72/Lot 10 (a/k/a 289 Baldwin Street), all to be consolidated as Tax Block 72, Lot 3, and all in Glen Ridge, Essex County, New Jersey (collectively, the "**Baldwin Street Properties**");

WHEREAS, on the commencement date of the Baldwin Street Litigation, the following matter (the "**Essex County Declaratory Judgment Action**") was independently pending:

In all Declaratory Judgment Actions filed by Various Municipalities, County of Essex, Pursuant to the Supreme Court's Decision in *In re Adoption of N.J.A.C. 5:96*, 221 N.J. 1 (2015)

Superior Court of the State of New Jersey, Law Division/Essex County
Docket No. ESX-L-4173-15; and

WHEREAS, the Essex County Declaratory Judgment Action had been commenced by various Essex County municipalities (other than Glen Ridge) in response to the New Jersey Supreme Court's decision in *In re Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing*, 221 N.J. 1 (2015) ("**Mount Laurel IV**") which terminated the Council on Affordable Housing's jurisdiction to administer and approve municipalities' affordable housing plans and determined that the New Jersey courts would reassert primary jurisdiction over the same, said various Essex County municipalities (other than Glen Ridge) seeking a declaration in the Essex County Declaratory Judgment Action that such municipalities were in compliance with the obligations required by the Fair Housing Act of 1985, N.J.S.A. 53:27D-301 *et seq.*, in accordance with Mount Laurel IV (the aforesaid obligations hereinafter collectively the "**Mount Laurel Doctrine**"); and

WHEREAS, by Order dated March 7, 2016, the adjudicating court classified the Baldwin Street Litigation as a "builder's remedy" proceeding and consolidated it with the Essex County Declaratory Judgment Action for the limited purpose of determining Glen Ridge Borough's fair share obligation of very low, low and moderate income housing only; and

WHEREAS, by Order dated March 7, 2016, Elizabeth McKenzie was court-appointed to serve as Special Master (the "**Special Master**") for Glen Ridge Borough and the

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Builder in both the Baldwin Street Litigation and the Essex County Declaratory Judgment Action;
and

WHEREAS, as it relates to Glen Ridge Borough and the Builder:

WHEREAS, on multiple occasions, Glen Ridge Borough and the Builder appeared before Judge Robert H. Gardner, J.S.C., in the Essex County Declaratory Judgment Action and also participated in the court-ordered mediation process with the Special Master; and

WHEREAS, pursuant to the terms successfully negotiated by Glen Ridge Borough and the Builder through the court-ordered mediation process with the Special Master, Glen Ridge Borough and the Builder have agreed to settle the Baldwin Street Litigation premised upon the Builder's securing the right to construct 110 residential rental units on the Baldwin Street Properties, including a set-aside of approximately fifteen percent (15%) of the units (that is, 17 rental units) affordable to the region's very low, low and moderate income households in accordance with Uniform Housing Affordability Controls, N.J.A.C. 5:80-26.1 et seq. ("**UHAC**") and other applicable laws, together with a garage facility providing 188 parking spaces to be built thereon (the "**Inclusionary Development**"), the terms and conditions of the foregoing settlement being substantially in the form set forth on Exhibit A attached hereto (the "**Settlement Agreement**"); and

WHEREAS, to ensure that the Inclusionary Development generates affordable housing credits to be applied to Glen Ridge Borough's affordable housing obligations, the affordable units within the Inclusionary Development shall be developed in accordance with UHAC and shall be deed restricted for a period of at least 30 years from the date of the first occupancy of an affordable unit until Glen Ridge Borough takes action to release the affordability controls; and

WHEREAS, the terms and conditions of the Settlement Agreement have been approved and recommended by the Special Master; and

WHEREAS, Glen Ridge Borough hopes to also enter into an amicable settlement agreement with the Fair Share Housing Center ("**FSHC**") on terms to be approved and recommended by the Special Master, which is intended to amicably resolve Glen Ridge Borough's broader obligations under the Mount Laurel Doctrine; and

WHEREAS, Glen Ridge Borough and the Builder have agreed to present the Settlement Agreement to Judge Robert H. Gardner, J.S.C. (or other court with jurisdiction) in the Baldwin Street Litigation for review, the parties recognizing that the Settlement Agreement must be reviewed by the court at a fairness hearing (the "**Fairness Hearing**") in accordance with the requirements of *Morris County Fair Housing Council v. Boonton Township*, 197 N.J. Super. 359, 364 (Law Div. 1984), *aff'd o.b.*, 209 N.J. Super. 108 (App. Div. 1986) and *East/West Venture v. Borough of Fort Lee*, 286 N.J. Super. 311, 328 (App. Div. 1996), and that, in order to approve this Agreement, the Court must find that it adequately protects the interests of lower-income persons for whom the affordable units proposed by this Agreement are to be built; and

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NOW THEREFORE, BE IT RESOLVED, by the Borough Council of the Borough of Glen
Ridge, County of Essex, State of New Jersey, as follows:

1. The Mayor and Borough Clerk are hereby authorized to execute the Settlement Agreement in the form annexed hereto, subject to non-substantive changes recommended and agreed to by Glen Ridge's counsel.
2. The Borough Clerk is directed to forward two (2) executed copies of the Redevelopment Agreement to the Borough Attorney so that he may retain one (1) copy for his records and forward one (1) copy to counsel for the Redeveloper.

ATTEST:

**BOROUGH COUNCIL OF
THE BOROUGH OF GLEN RIDGE**

Michael J. Rohal, RMC
Borough Administrator/Clerk

Stuart K. Patrick, Mayor

I, Michael J. Rohal, hereby certify that the foregoing Resolution is a true, complete and accurate copy of a Resolution adopted by the Borough Council of the Borough of Glen Ridge at a meeting held on September 24, 2018.

Michael J. Rohal, RMC/
Borough Administrator/Clerk